

1  
2  
3  
4  
5  
6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
8

9 Hailei Joe,

10 Plaintiff,

11 v.

12 Olive Branch Assisted Living LLC,

13 Defendant.  
14

No. CV-23-02154-PHX-JJT

**ORDER**

15 At issue is Plaintiff Hailei Joe's Motion for Reconsideration (Doc. 121, Mot.), in  
16 which Plaintiff disagrees with the Court's decision to grant Defendant Olive Branch  
17 Assisted Living LLC summary judgment as to Plaintiff's retaliation claims and prayer for  
18 punitive damages (Doc. 117, Summary Judgment ("SJ") Order). Defendant filed a  
19 Response (Doc. 123) without leave of Court in contravention of Local Rule of Civil  
20 Procedure 7.2(g), and Plaintiff filed no objection or Reply thereto.

21 Brought under Local Rule 7.2(g) in this District, motions for reconsideration are  
22 generally disfavored and should be granted only in rare circumstances. *See Ross v. Arpaio*,  
23 No. CV 05-4177-PHX-MHM (ECV), 2008 WL 1776502, at \*2 (D. Ariz. Apr. 15, 2008)  
24 (citing *Defenders of Wildlife v. Browner*, 909 F. Supp. 1342, 1351 (D. Ariz. 1995)).  
25 Disagreement with an order is an insufficient basis for reconsideration. *See id.* (citing  
26 *Leong v. Hilton Hotels Corp.*, 689 F. Supp. 1572, 1573 (D. Haw. 1988)). Reconsideration  
27 is only appropriate if: (1) the court is presented with newly discovered, previously  
28 unavailable evidence; (2) the court committed a clear error of law and the initial decision



1 was manifestly unjust; or (3) there has been an intervening change in controlling law. *Sch.*  
2 *Dist. No. 1J, Multnomah Cnty., Or. v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993).

3 Plaintiff contends the Court erred in granting Defendant summary judgment as to  
4 her retaliation claims because the Court concluded that Defendant’s defamation  
5 counterclaim was not frivolous without allowing Plaintiff to raise a question of fact  
6 regarding whether Defendant’s counterclaim was pretextual. (Mot. at 7.) This is not a new  
7 proposition raised by Plaintiff; the Court already considered it in resolving the summary  
8 judgment cross-motions. As stated in the summary judgment Order, the Court based its  
9 decision on the answer to a different question: whether Plaintiff suffered a “distinct and  
10 palpable injury” resulting from Defendant’s counterclaim and the aggressive litigation  
11 language from Defendant’s former counsel as required to establish a claim for unlawful  
12 retaliation. (SJ Order at 12 (citing *Brown v. City of Tucson*, 336 F.3d 1181, 1193 (9th Cir.  
13 2003).) Based on the evidence of statements made by Plaintiff and her counsel to the  
14 Phoenix New Times, the Court found Defendant’s counterclaim was not frivolous on its  
15 face and Plaintiff thus did not suffer the requisite injury to bring retaliation claims. (SJ  
16 Order at 12–13.) Moreover, the litigation privilege Plaintiff asserted as to those statements  
17 did not apply. (SJ Order at 13–14.) Nothing in Plaintiff’s Motion for Reconsideration  
18 changes the Court’s prior analysis, and indeed the Motion is a rehashing of arguments  
19 Plaintiff already made in the summary judgment briefing.

20 Plaintiff also asks the Court to reverse its decision dismissing her prayer for punitive  
21 damages because she would otherwise suffer a “manifest injustice.” (Mot. at 9.) But, as the  
22 Court stated in the summary judgment Order, Plaintiff’s only evidence of the requisite  
23 “reckless indifference” or “evil mind” is Defendant’s Policies and Procedures Manual,  
24 which is insufficient for a reasonable juror to find that the Arizona or federal standard for  
25 punitive damages is met. In short, Plaintiff has not proffered sufficient evidence to warrant  
26 seeking punitive damages before a jury.

27 ...


28 ...



**IT IS THEREFORE ORDERED** denying Plaintiff's Motion for Reconsideration (Doc. 121).

Dated this 16th day of September, 2025.

ber, 2025.

  
Honorable John J. Tuchi  
United States District Judge